

No. 7326

BELGIUM
and
FEDERAL REPUBLIC OF GERMANY

Treaty concerning the compensation of war victims (with exchange of letters). Signed at Brussels, on 21 September 1962

Official texts: French and German.

Registered by Belgium on 30 June 1964.

BELGIQUE
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE

Traité relatif à l'indemnisation de victimes de la guerre (avec échange de lettres). Signé à Bruxelles, le 21 septembre 1962

Textes officiels français et allemand.

Enregistré par la Belgique le 30 juin 1964.

[TRANSLATION — TRADUCTION]

No. 7326. TREATY¹ BETWEEN THE KINGDOM OF BELGIUM AND THE FEDERAL REPUBLIC OF GERMANY CONCERNING THE COMPENSATION OF WAR VICTIMS. SIGNED AT BRUSSELS, ON 21 SEPTEMBER 1962

His Majesty the King of the Belgians and

The President of the Federal Republic of Germany,

desiring to settle certain questions between the two States concerning the compensation of war victims, and being aware of the humanitarian significance of such questions,

have agreed to conclude a Treaty, and to that end have appointed their plenipotentiaries :

His Majesty the King of the Belgians :

Mr. Paul-Henri Spaak, Minister for Foreign Affairs of the Kingdom of Belgium ;

The President of the Federal Republic of Germany :

Dr. Kurt Oppler, Ambassador of the Federal Republic of Germany at Brussels.

The plenipotentiaries, having found their respective full powers to be in good and due form, have agreed as follows :

Article 1

This Treaty regulates the compensation of war victims in the Belgian territories subject to German internal legislation during the war of 1940-1945, who

- (a) Were forcibly conscripted into the German Army and who in the course of and by reason of that conscription suffered physical injury or
 - (b) Are survivors of a victim who died as a result of such injury,
- and are covered by the legal provisions in force in the Kingdom of Belgium at 1 July 1962 relating to pensions for the indemnification of civilian victims of the war of 1940-1945 and their survivors.

Article 2

The Kingdom of Belgium shall continue to apply its legal provisions relating to pensions for the indemnification of civilian victims of the war of 1940-1945 and their

¹ Came into force on 1 April 1964, the first day of the month following the exchange of the instruments of ratification which took place at Bonn on 6 March 1964, in accordance with the provisions of article 12.

survivors, to the persons referred to in article 1, in accordance with the legislation in force.

Article 3

The Federal Republic of Germany shall pay to the Kingdom of Belgium, in conformity with the provisions of its law on the compensation of war victims (*Bundesversorgungsgesetz*), on behalf of the persons mentioned in article 1, the total amount of 30 million Deutsche Mark in accordance with the procedure set forth in article 4.

Article 4

The Federal Republic of Germany shall pay to the Kingdom of Belgium the amount mentioned in article 3 in two equal annual instalments. The first instalment shall be paid three months after the entry into force of this Treaty, and the second instalment one year after the first payment.

Article 5

The Kingdom of Belgium shall allocate the sum placed at its disposal by the Federal Republic of Germany under article 3 to the persons mentioned in article 1, in accordance with the procedure prescribed in article 6.

Article 6

(1) The Kingdom of Belgium shall make annual compensatory payments to the persons mentioned in article 1. Such compensatory payments shall be equal to the difference which existed on 1 July 1962 between, on the one hand, the annual amounts of the pensions and allowances due under the provisions of article 2 and, on the other hand, the annual amounts of any pensions and allowances payable under the law relating to pensions for the indemnification of military victims of the war of 1940-1945. Such compensation shall be payable half-yearly at the end of the period in respect of which the payments are due, until the time set in paragraph 4.

(2) In the case of disabled persons, the basis to be taken for the calculation of the indemnification pensions is 550 Belgian francs.

(3) The compensatory payments shall commence on 1 July 1962. The amounts due at the time of the entry into force of this Treaty shall be paid within three months following the payments of the first annual instalment provided for in article 4.

(4) The compensatory payments shall be made to the persons mentioned in article 1 as long as they are entitled to benefit under article 2.

(5) Notwithstanding the provision set forth in paragraph 4, entitlement to the compensatory payments provided for in this article shall not be affected by a change of nationality, provided that the State whose nationality the person concerned has acquired does not object.

(6) The compensatory payments specified in paragraph 1 shall not entail any deduction from the pensions and allowances referred to in article 2.

Article 7

The Federal Ministry of Labour and Social Affairs of the Federal Republic of Germany and the Ministry of Public Health and Family Welfare of the Kingdom of Belgium shall reach agreement on the measures for giving effect to this Treaty. They shall notify each other of any amendments to the legislation mentioned in this Treaty.

Article 8

When the Federal Republic of Germany has made the payments specified in this Treaty, all claims of the Kingdom of Belgium regarding compensation for the persons mentioned in article 1 in respect of the injury suffered by them shall be deemed to have been satisfied.

Article 9

The Contracting Parties reserve the right to carry out a review at a later date in order to verify whether, and to what extent, further payments might be necessary and feasible in respect of the persons mentioned in article 1, in the event of, on the one hand, the difference between the Belgian pensions referred to in article 6 (1) and, on the other hand, the German pensions provided under the federal compensation law (*Bundesversorgungsgesetz*) increasing considerably in relation to the rates in force on 1 July 1962. Such a review, however, may not take place before 1 July 1967.

Article 10

(1) Any disputes between the two Contracting Parties concerning the interpretation or the application of this Treaty shall be settled, so far as possible, through the diplomatic channel.

(2) Any dispute which cannot be settled in the manner indicated above shall, if either of the Contracting Parties so requests, be submitted to an arbitral tribunal.

(3) The arbitral tribunal shall be constituted separately for each case; each Contracting Party shall appoint one member, and the two members thus appointed shall, by mutual agreement, propose a national of a third State who shall serve as Chairman upon being confirmed in that capacity by the Governments of both Contracting Parties. If the members have not been appointed within two months and the Chairman within three months from the date on which one of the Contracting Parties has informed the other Party of its intention of submitting the dispute to the arbitral tribunal, either Contracting Party may, in the absence of any other arrangement, request the President of the European Court of Human Rights at Strasbourg to make

the necessary appointments. If the President is a national of one of the Contracting Parties or if he is disqualified on some other ground, the Vice-President shall make the appointments. If the Vice-President also is a national of one of the Contracting Parties or is disqualified, the member of the Court immediately below him in rank who is not a national of either of the Contracting Parties shall make the appointments.

(4) The arbitral tribunal shall decide by majority vote. Its decisions shall be binding on the Contracting Parties.

(5) Each Contracting Party shall defray the costs of the member whom it appoints, and also those of its representation in the proceedings before the arbitral tribunal; the costs of the Chairman and the remaining costs shall be defrayed equally by the two Contracting Parties. The arbitral tribunal may decide on a different distribution of the costs. The arbitral tribunal shall determine its own rules of procedure.

Article 11

This Treaty shall also apply to the *Land* Berlin, unless the Government of the Federal Republic of Germany declares otherwise to the Government of the Kingdom of Belgium within a period of three months after the entry into force of this Treaty.

Article 12

(1) This Treaty shall be ratified; the instruments of ratification shall be exchanged at Bonn as soon as possible.

(2) This Treaty shall enter into force on the first day of the month following the month in which the instruments of ratification have been exchanged.

IN WITNESS WHEREOF the plenipotentiaries of the two Parties have signed this Treaty and have affixed thereto their seals.

DONE at Brussels on 21 September 1962, in duplicate, in the French and German languages, both texts being equally authentic.

For the Kingdom
of Belgium :

Paul-Henri SPAAK

For the Federal Republic
of Germany :

Kurt OPPLER

EXCHANGE OF LETTERS

I

Brussels, 21 September 1962

THE AMBASSADOR OF THE FEDERAL REPUBLIC OF GERMANY

Sir,

With reference to the Treaty between the Federal Republic of Germany and the Kingdom of Belgium concerning the compensation of war victims, which was signed today,¹ I have the honour to inform you of the following :

If existing Belgian legal provisions concerning pensions for the indemnification of civilian victims of the war of 1940-1945 and their survivors are extended to other groups of war victims who at present have no claim to any payments under that legislation, but who are nevertheless direct or indirect victims of forcible conscription into the German Army during the war of 1940-1945, the Federal Republic of Germany and the Kingdom of Belgium shall undertake fresh negotiations in order to explore the possibility of granting compensation to such groups also, on a scale comparable with that provided for in the Treaty which was signed today.

If the Kingdom of Belgium agrees to this proposal, I have the honour to suggest that this letter and Your Excellency's reply should constitute an integral part of the Treaty signed this day.

I have the honour to be, etc.

Kurt OPPLER

His Excellency Mr. Paul-Henri Spaak
Minister for Foreign Affairs of the Kingdom of Belgium
Brussels

II

Brussels, 21 September 1962

MINISTRY OF FOREIGN AFFAIRS AND EXTERNAL TRADE

Sir,

I have the honour to acknowledge the receipt of Your Excellency's letter of today's date, which reads as follows :

[See letter I]

I have the honour to notify Your Excellency that the above proposal is acceptable to the Kingdom of Belgium.

Your Excellency's letter and this reply will constitute an integral part of the Treaty signed this day.

I have the honour to be, etc.

Paul-Henri SPAAK

The Ambassador of the Federal Republic of Germany
Brussels

¹ See p. 74 of this volume.